



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 05/02/06

AGENDA ITEM 7

WORK SESSION ITEM _____

TO: Mayor and City Council
Redevelopment Agency Board Members

FROM: Director of Community and Economic Development

SUBJECT: Acquisition and Exchange of Property and Easement Interests for Cannery Area
Public Improvements - 199 C Street, 199 Filbert Street, Cannery Court, and
24083 Myrtle Street

RECOMMENDATION:

It is recommended that the City Council and Agency Board adopt the attached resolutions authorizing: 1) acquisition of property and easement rights owned by Citation Homes in exchange for the Cannery Court roadway and Agency-owned property, 2) acquisition of easement interests from Libitzky Holdings, and 3) exchange and conveyance of fee title between the City and Agency of Cannery Court.

BACKGROUND:

The Agency is undertaking to acquire properties needed in order to build the public improvements that are called for as part of the new Burbank School and expanded Cannery Park. Over the past three years, the Agency has acquired several residential properties on C Street. In addition, the Agency acquired a portion of the industrial property owned by Libitzky Holdings, and escrow will close this month. The Agency has also reached a settlement with Libitzky's industrial tenant, Custom Freight, whose parking will be affected by the right-of-way acquisition.

The remaining property that must be acquired is a portion of the industrial property owned by Citation Homes. The property is needed for construction of a new street that will border Cannery Park and the new Burbank School on the south side, as well as for expansion of Cannery Park itself. Finally, the Citation property is subject to a lease with an industrial tenant, and both the Citation and the Libitzky properties are encumbered by cross easements for access purposes. (See Exhibit A.) The Agency Board is being requested to approve the actions necessary to effect the remaining voluntary acquisitions.

Proposed Acquisition: The Citation Homes property proposed for acquisition is a triangular strip of land consisting of approximately 86,934 square feet adjacent to Cannery Park. The property includes portions of two parcels. The property is improved with paving and landscaping and includes the northern gateway to the old Hunt-Wesson Cannery. The property is currently under lease to Trans-Freight Express, a freight-forwarding company, until July 31, 2007. Staff proposes to acquire the property subject to this lease, and then acquire the leasehold rights directly from Trans-Freight. A leasehold purchase offer has been submitted to Trans Freight Express which they are considering.

Citation Homes also holds access easement rights to a portion of the adjacent property owned by Libitzky Holdings. The Citation easement rights proposed for acquisition affect a 4,800 square foot portion of the right of way being acquired from Libitzky Holdings.

The value of the Citation property being acquired in fee is \$1,131,694, based on industrial land values, and adjusted for the estimated cost to monitor groundwater contamination as required by the State Department of Toxic Substances Control (DTSC), as well as the estimated cost to acquire the tenant's leasehold. The value for Citation's easement rights to the Libitzky property is \$4,656. Therefore, the total value ascribed to the Citation property being conveyed is \$1,136,350.

The Proposed Exchange: In December 2005 the Agency approved housing development applications by Felson Builders for 349 residential dwelling units, and by Citation Homes for 279 residential units. Subsequently, Citation Homes acquired the Felson's Cannery Property and merged the two projects. In order to develop the project as approved, Citation must acquire Cannery Court, as well as an Agency-owned residential property located at 24083 Myrtle Street.

The Agency's property is a single-family house that the Agency purchased in 2003. Citation will deconstruct the house and incorporate the land into the street which will serve as the entrance into the new development. Cannery Court is located at the southerly end of the Cannery properties, running parallel to and accessing Winton Avenue. This public roadway, which is owned by the City, will no longer be needed once the new development is underway, and new public access is created. The roadway proposed for conveyance is 34,239 square feet. Because the underlying roadway is owned by the City, the Agency must acquire it from the City. It is therefore proposed that the City enter into a separate agreement to exchange Cannery Court for the new road right-of-way being acquired from Citation and Libitzky. The City will continue to retain a right-of-way easement, and will vacate the street at such time as the developer provides the necessary alternative public access for other properties, notably Shurgard Storage, that currently depend on Cannery Court.

The value of Cannery Court is \$475,075, using the same value per square foot ascribed to the Citation property. Based on recent sales of homes on either side of it, the Myrtle Street house is estimated to have a fair market value of \$605,000. Therefore, the total value of the properties proposed for sale to Citation Homes is \$1,079,075. It is proposed that the Agency

and Citation Homes exchange the two properties for a net exchange amount owed to Citation Homes of \$57,275. These funds will be held in escrow until the acquisition of the leasehold interests by Trans-Freight Express is settled, and any additional costs incurred by the Agency for that acquisition will be deducted from the sales proceeds.

Libitzky Easement: As previously noted, Libitzky Holdings holds access easement rights to a portion of Citation's property. Of the 86,934 square feet of property that is proposed to be acquired from Citation, Libitzky has access rights to 19,295 square feet. These easement rights have been valued at \$18,700. An offer has been made to the owner and accepted.

Exchange Agreement: The City-owned Cannery Court, which is approximately 34,239 square feet, would be exchanged for the right-of-way being acquired by the Agency for the new street, which totals approximately 59,883 square feet including both Libitzky and Citation properties. This exchange will allow the Agency/Citation Purchase and Exchange Agreement to proceed, and will overall require less cash outlay from the Agency.

Staff recommends that the Agency approve an appropriation of \$100,000 from the 2004 bond proceeds to cover the costs of acquisition, title and escrow fees for the purchases and exchanges described above: \$80,000 for the Citation acquisition and exchange, and \$20,000 for the Libitzky easement acquisition.

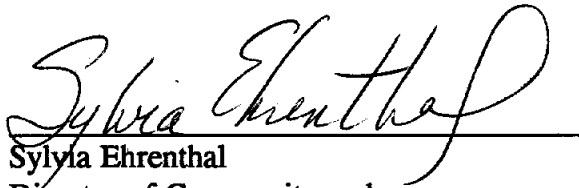
The City has previously approved a construction contract for construction of the new streets surrounding the expanded Cannery Park and new Burbank School. Construction of the new street to the south of the park and school, including modifications and enclosure of the Sulfur Creek storm channel is expected to begin construction as soon as the property can be secured.

Once construction on the roadway begins, it will require an estimated seven to nine months to complete depending on the weather. Construction on the roadway is expected to be completed prior to the scheduled start of construction on the new Cannery Park and Burbank School. Construction of the new school is projected to commence March 2007, with the school opening at the start of the 2008 academic year.

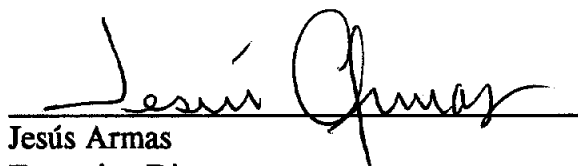
Prepared by:


Maret Bartlett
Redevelopment Director

Recommended by:


Sylvia Ehrental
Director of Community and
Economic Development

Approved by:


Jesús Armas
Executive Director

Exhibits:

A: Site Map of Proposed Exchange Properties

Resolutions:

- City Council Resolution Authorizing Exchange of Cannery Court for Right of Way Owned by the Redevelopment Agency on Citation and Libitzky Properties
- Agency Resolution Authorizing the Acquisition and Exchange of Property and Easement Interests for Cannery Area Public Improvements
- Agency Resolution Appropriating Funds and Modifying FY 2005-06 Budget

**DUE TO THE COLOR OF THE
REFERENCED ATTACHMENT, IT
HAS BEEN ATTACHED AS A
SEPARATE LINK**

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 06-

Introduced by Council Member _____

**RESOLUTION AUTHORIZING THE EXCHANGE OF
CANNERY COURT FOR RIGHT OF WAY OWNED BY THE
REDEVELOPMENT AGENCY LOCATED ON CITATION
AND LIBITZKY PROPERTIES**

WHEREAS, Cannery Court, owned by the City of Hayward, provides access to the Cannery Area at the southerly end of the Cannery properties; and

WHEREAS, a new road is proposed to be developed that will replace such access; and

WHEREAS, Cannery Court will no longer be needed once the new access roadway is developed; and

WHEREAS, the City desires to acquire right of way owned by the Agency on the Citation/Libitzky properties; and

WHEREAS, exchanging Cannery Court for the aforementioned right of way will benefit the City and assist in the redevelopment of the Cannery Area.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager to negotiate and execute a Roadway and Exchange Agreement exchanging Cannery Court for land acquired by Hayward Redevelopment Agency from Citation and Libitzky for street purposes.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2005

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA-06-

Introduced by Agency Member _____

**RESOLUTION AUTHORIZING THE ACQUISITION AND
EXCHANGE OF PROPERTY AND EASEMENT INTERESTS
FOR CANNERY AREA PUBLIC IMPROVEMENTS**

WHEREAS, over the last three years the Redevelopment Agency has acquired and cleared several residential properties on C, Filbert and Burbank Streets in order to develop the public improvements required for Hayward Cannery Area Design Plan; and

WHEREAS, the Redevelopment Agency approved development applications to construct a total of 628 residences, which applications encompass the property proposed to be acquired by Citation Holmes; and

WHEREAS, the remaining property to be acquired is an 86,934 square foot portion of the industrial property owned by Citation Homes and easement rights that Citation Homes has to a 4,800-square-foot portion of the right-of-way of the adjacent property owned by Libitzky Holdings; and

WHEREAS, in 2003 the Agency purchased property located at 24083 Myrtle Street as a part of the development process for the Cannery Area, which Citation Homes needs to acquire in order to deconstruct the home and use property for a public roadway, in accordance with the approved development applications; and

WHEREAS, Cannery Court, owned by the City of Hayward, is the current roadway leading into the Cannery Area located at the southerly end of the Cannery properties and will no longer be needed once the new development is underway; and

WHEREAS, the Agency desires to acquire Cannery Court from the City of Hayward and enter into a separate agreement to exchange Cannery Court for the new road right-of-way that the Agency is acquiring from Citation and Libitzky; and

WHEREAS, the value of the Citation property being acquired is \$1,131,694 and the easement rights to the Libitzky property is \$4,656 for a total of \$1,136,350; the value of Cannery Court is \$475,075 and the fair market value of the Myrtle Street property \$605,000 for a total of \$1,079,075; and

WHEREAS, staff proposes to exchange the property and easement rights owned by Citation Homes for the Cannery Court and Myrtle Street properties for a net exchange amount owed to the developer of \$57,275.

NOW THEREFORE BE IT RESOLVED that the Agency Board of the Redevelopment Agency of the City of Hayward hereby authorizes the acquisition of the property and easement rights owned by Citation Homes in exchange for the Cannery Court Roadway and the Agency-owned 24083 Myrtle Street property for purposes of developing the Hayward Cannery Area and authorizes the additional expenditure of \$57,275, to be held in escrow pending final resolution of outstanding issues relating to the property.

BE IT FURTHER RESOLVED that the Agency is authorized to enter into a Roadway Acquisition and Exchange Agreement exchanging land acquired from Citation and Libitzky for street purposes with the City for Cannery Court.

BE IT FURTHER RESOLVED that the Executive Director is hereby authorized to negotiate and execute any and all documents necessary to consummate this transaction, in a form to be approved by the City Attorney.

HAYWARD, CALIFORNIA _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS:

CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST: _____
Secretary of the Redevelopment Agency
of the City of Hayward

APPROVED AS TO FORM:

General Counsel

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA-06-

Introduced by Agency Member _____

RESOLUTION AMENDING RESOLUTION NO. RA 05-12,
THE BUDGET RESOLUTION FOR THE REDEVELOPMENT
AGENCY OF THE CITY OF HAYWARD FOR FISCAL
YEAR 2005-2006, RELATING TO AN APPROPRIATION OF
FUNDS FOR THE ACQUISITION AND EXCHANGE OF
PROPERTY FOR DEVELOPMENT OF THE CANNERY
AREA DESIGN PLAN

BE IT RESOLVED by the Redevelopment Agency of the City of Hayward that Resolution No. RA 05-12, the Budget Resolution for the Redevelopment Agency of the City of Hayward for fiscal year 2005-2006, is hereby amended by appropriating \$100,000 from the 2004 Tax Allocation Bond Fund, Fund 454 to account number 454-5099-9536 TAB's Cannery Public Works, ROW acquisition.

HAYWARD, CALIFORNIA _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS:
CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST: _____
Secretary of the Redevelopment Agency
of the City of Hayward

APPROVED AS TO FORM:

General Counsel